

**Proposed Amendments for 10-07-09 General Government Committee
(redline version)**

Item # _____

Prepared by: Lou Geater

Approved by: Christy L. Kinard
Assistant County Attorney

AN ORDINANCE TO AMEND CHAPTER 7 THE CODE OF ORDINANCES OF SHELBY COUNTY, TENNESSEE, BY ADDING A NEW ARTICLE TO INCLUDE REGULATIONS FOR THE PROPER DISPOSAL OF TIRES AND THE REGISTRATION OF CERTAIN TIRE BUSINESSES WITHIN SHELBY COUNTY. SPONSORED BY COMMISSIONER STEVE MULROY.

WHEREAS, the County administration has determined that tires are being improperly disposed of throughout the County; and

WHEREAS, tires provide habitats for rodents, insects, and other vermin and serve as excellent breeding grounds for mosquitoes that carry diseases and present a fire hazard; and

WHEREAS, the improper disposal of waste tires found throughout various areas of Shelby County is a major fiscal and waste management problem to the County; and

WHEREAS, it is the intent and purpose of the County to provide for the public health, safety and welfare of the residents of Shelby County specifically as it relates to the improper disposal of tires in the County and to eliminate the fiscal and waste management problem resulting from such improper activity; and

WHEREAS, the County Mayor's Administration and Board of Commissioners have determined it to be in the best interest of the citizens of the County to adopt this ordinance for the protection of the citizens and to establish standards for the proper disposal of tires and the permitting of tire businesses engaging in the resale of tires or that generate waste tires; and

WHEREAS, after the County Commission and City Council have passed substantially similar ordinances regulating the disposal of tires and the registration of tire businesses, the County desires to enter into an interlocal agreement with the City of Memphis that sets forth the responsibilities of the County and the City for purposes of carrying out the provisions of this ordinance.

Deleted: WHEREAS, the City and County legislative bodies have each agreed to contribute fifty-thousand dollars (\$50,000) for the establishment of a Tire Disposal Fund in an effort to defray the administrative and operational costs associated with regulating the disposal of tires throughout the city of Memphis and county of Shelby; and ¶

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NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That Chapter 7 of the Shelby County Code of Ordinances be amended by adding a new article entitled "Tire Disposal and Tire Business Registration" to include the following:

Sec. . **Purpose and Intent.**

It is declared to be the purpose and intent of the County to protect the public health, safety, and welfare of its citizens, prevent the spread of disease and creation of nuisances, and to protect and enhance the quality of its environment. The purpose of this Article is to institute and maintain a comprehensive program for tire disposal which will assure that the storage, transportation, collection, processing and disposal of tires does not adversely affect the health, safety, and well-being of the public and does not degrade the quality of the environment.

Deleted: SECTION 1. BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the Shelby County Code of Ordinances be included to read as follows:¶

¶ **TIRE DISPOSAL AND TIRE BUSINESS REGISTRATION**¶

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Sec. . **Definitions.**

As used in this Article, the following words and phrases shall have the meaning ascribed to them herein:

Dump shall mean to throw, discard, place, deposit, discharge, bury, or dispose of.

Manifest shall mean a form or document used for identifying the quantity and the origin, routing, and destination of tires during transportation from the point of generation, through any intermediate points, to an end user, processor or disposer.

Person shall mean any and all persons, natural or artificial, including any individual, firm or association.

Tire shall mean a continuous solid or pneumatic rubber covering encircling the wheel of a bicycle, motorcycle, automobile, truck, trailer, tractor or other vehicle.

Tire Business shall mean and include any place or establishment engaged in the business of reselling tires or that generates waste tires and is occupied, used or maintained for the purpose of offering, transporting, repairing, processing, storing, utilizing, and disposing of any and all types of such tires.

Tire Recycling Facility shall mean a Shelby County facility, mandated and licensed pursuant to the Tennessee Solid Waste Management Act, which recycles or properly disposes of tires.

Waste tire shall mean a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect. Waste tire also includes any tire that is destined for a tire disposer or reprocessor (i.e., recapper).

Waste tire hauler shall mean any person engaged in picking up or transporting waste tires for the purpose of removal to a tire recycling facility, waste tire disposer, processor, end user, or disposal facility.

Waste tire disposer shall mean any person who is approved by the Tennessee Department of Environment and Conservation to receive waste tires from waste tire generators or

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waste tire haulers for the purpose of waste tire processing, shredding or otherwise facilitating recycling or resource recovery techniques for waste tires.

Waste tire generator shall mean any person or entity that generates waste tires. Generators may include, but are not limited to, retail tire dealers, retreaders, waste tire disposers, automobile dealers, private company vehicle maintenance shops, garages, service stations, and city, county, and state governments.

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Sec. . Tire Business Permits.

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All tire businesses located within the unincorporated areas of the county engaging in the resale of tires or the generation of waste tires shall be issued a permit annually by Shelby County, by and through the City of Memphis Permits Office for a non-refundable fee of Twenty-five (\$25.00) dollars. The County will conduct random inspections of such tire businesses for the sake of monitoring compliance with the foregoing permit requirement.

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(a) Application. Every person, firm or corporation obligated to comply with the permit requirement set forth herein shall make written application to the County. The application shall be made on a form obtained from the City of Memphis Permits Office setting forth, among other things, the following:

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(1) Name, physical address, telephone number and facsimile number of the applicant;

(2) Tax identification number or taxpayer identification number;

(3) Proof of current Shelby County Business License, issued to the applicant at the proposed business address;

(4) Shelby County Code Enforcement Use and Occupancy Certificate;

(5) Name, mailing address, telephone number and facsimile number of the owner of the tire business (if different from number 1 above);

(6) The estimated number of tires that will be stored on site;

(7) The current physical address of the site;

(8) A statement setting forth and describing the available space for properly accommodating and protecting all tires; and

(9) Such other and further information as the City of Memphis Permits Office may require.

(b) Annual Fees. All permit fees are due annually by July 1st, of each calendar year at the City of Memphis Permits Office. The annual permit fee shall be paid in advance

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of the issuance of such permit, such fee shall be prorated as necessary. A current valid permit may be replaced by the City of Memphis Permits Office for a fee of Fifteen dollars (\$15.00).

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(c) Issuance. The City of Memphis Permits Office shall issue a permit to a tire business which submits the required and completed application, pays the fee as required in this Article, and has demonstrated compliance with this Article and all applicable county ordinances. Each tire business registered in accordance with the provisions of this Article shall immediately post such permit, or cause same to be posted, in a conspicuous place within the premises where such tire business is thereby authorized to be established, maintained or operated.

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(d) Effective Period. The permit shall be effective beginning on July first until the next ensuing thirtieth day of June, on and after which date it shall be null and void.

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Sec. . Denial of permit or renewal; suspension or revocation of permit.

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The City of Memphis Permits Office may refuse to issue or renew a tire business permit or may suspend or revoke such permit if:

(1) The applicant or permit holder refuses to permit entry into the tire business by the authorized representatives of the county or otherwise willfully obstructs the inspection of the tire business; or

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(2) There are repeated or a serious violation(s) of any county ordinance by the tire business; or

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(3) The tire business fails to comply with any provision of this Article and/or any other applicable county ordinance(s); or

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(4) The tire business fails to comply with any state or federal law, rule or regulation applicable to the operation of said tire business.

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Sec. . Marking of Tires.

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Tire Businesses shall promptly mark each used tire at each of its facilities with the name and permit number of the tire business. Such marking shall be permanently affixed on the sidewall of each tire. The marking shall not be less than fourteen inches (14") by four inches (4") in size. Each tire business shall have six (6) months from the effective date of this ordinance to comply with this provision. Failure to comply with the marking requirement set forth herein shall be grounds for revocation of the permit holder's permit in accordance with this article.

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Sec. . Storage of Tires.

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Tire Businesses shall properly store tires at each facility in accordance with local, state and federal law. To eliminate potential nuisances of litter, insect breeding, fire hazards and other health risks, each tire business shall at all times:

(1) Store tires in covered or enclosed areas, or under an impermeable cover to prevent the accumulation of water;

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(2) Store tires off the ground;

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(3) Allow no standing water to accumulate in the tires;

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(4) Secure tires at each facility to prevent easy access or theft. Lock, chain, or store tires inside a building or other securable structure;

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(5) Accumulate tires in piles no greater than feet in height with horizontal dimensions no greater than feet by feet; and

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(6) Isolate tires from other stored materials that may create hazardous products if there is a fire, including, but not limited to, lead acid batteries, fuel tanks, solvent barrels, and pesticide containers.

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Sec. . **Place for Disposal of Tires.**

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 (a) It shall be unlawful for any person or tire business to cause, suffer or allow the dumping of tires at any place in the unincorporated areas of the County including, without limitation, in or on any public highway, road, street, alley, or thoroughfare, including any portion of the right of way thereof, any public or private property in the County or any waters in the County. Notwithstanding the foregoing, residential property owners within the County may properly discard up to four (4) rimless used or waste tires on the curbside immediately in front of the property owner's residence for normal trash pick-up without violating this provision; provided that such tires are discarded for removal within twenty-four (24) hours of the property owner's designated day for trash pick-up.

 (b) It shall be unlawful for any person or tire business to cause, suffer, or allow the disposal of whole tires in a landfill.

 (c) Tires shall be properly disposed of in accordance with this article by the delivery and manifesting of tires to an authorized tire recycling facility designated by the county or a waste tire disposer regulated and licensed by the State of Tennessee, pursuant to the Solid Waste Management Act, for the disposal and/or processing of tires. Tire Businesses contracting with a tire hauler(s) for the proper disposal of tires generated by such business shall require such hauler(s) utilize a transmittal manifest documenting the pick-up and delivery of the tires to an authorized waste tire disposer or recycling facility.

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Sec. . **Disposal Records/Transmittal Manifest**

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(a) Tire Businesses shall keep disposal records in the form of a transmittal manifest, as prescribed by the County, at each business location for a minimum of three (3) years and make such records readily available upon request at reasonable hours for inspection by representatives of the County. The manifest must be signed and clearly state the following:

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(1) Name, address, telephone number, and authorized signature of the tire hauler;

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(2) Name, address, telephone number, and authorized signature of the tire business who is contracting for the removal of the tires along with the permit number for such business;

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(3) Date of removal and the number of tires being transported;

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(4) Name, address, and telephone number of the location where the tires are to be delivered; and

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(5) Upon delivery, the name and signature of the person accepting the tires, including the date of acceptance.

(b) The transmittal manifest required by this section shall at all times accompany tires while in transit. Any tire business directly delivering waste or used tires generated at its business location to a waste tire disposer or recycling facility must also utilize the transmittal manifest and make such manifest available for production or inspection by representatives of the County, upon request. The original manifest shall be maintained by the tire business notwithstanding the use of a tire hauler or direct delivery by the tire business. A tire hauler contracted to deliver tires to a recycling facility or waste tire disposer must maintain a duplicate copy of the manifest reflecting the delivery of such tires for proper disposal. The tire recycling or waste tire disposer shall sign the manifest upon acceptance of the tires and also maintain a copy of the manifest for the facility's records.

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Sec. . Redemption Program.

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(a) For the purpose of assisting with the proper disposal of waste or scrap tires, any person, other than a tire business or waste tire carrier, generator, hauler, disposer, or sorter, presenting an illegally disposed used or waste tire to an authorized tire disposal or recycling facility shall receive a redemptive value of fifty cents (.50) per tire, notwithstanding the absence of the required tire marking included on such tires. The waste tire disposer or recycling facility receiving such tires shall require that the person presenting such tires for redemption execute an affidavit certifying that the tires were not stolen and that such person was not hired to haul such used or waste tires for disposal. Upon execution of such affidavit, the waste tire disposer or recycling facility is hereby authorized to make payment to the affiant and shall properly record and retain documentation reflecting such payment for a period of twelve (12) months. Information regarding the location of authorized waste tire disposers and tire recycling facilities shall be made available through the City of Memphis Permits Office.

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(b) The Redemption Program established herein shall commence immediately upon the effective date of this article and shall expire within twelve (12) months of same, unless prior

to such date the board of County Commissioners, after conducting public hearings, finds that the purpose of the program has yet to be fully achieved, in which case it may extend the effective period of the program for an additional two (2) years.

Sec. . Administration and Enforcement.

Administration and enforcement of this Article shall be the responsibility of the City of Memphis Permits Office, Shelby County Sheriff's Office, Memphis and Shelby County Office of Construction Code Enforcement, and Shelby County Division of Public Works. The county, by and through its authorized representatives, is hereby authorized to enter upon any property regulated by this ordinance, at reasonable or necessary times in order to properly inspect for violations.

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Sec. . Violations and Penalties.

Any tire business violating or failing to comply with any provision of this article shall be subject to a civil penalty of \$50 for each offense as determined by a division of the General Sessions Court. Each day of continued violation shall constitute a separate offense.

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(1) The storage of one or more improperly marked tires shall constitute a separate offense per tire and be punishable by a fine of fifty dollars (\$50) for each improperly marked tire stored on the location of the tire business. Each day of continued violation of this subsection constitutes a separate offense.

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(2) The improper dumping of a tire shall constitute a separate offense per tire and be punishable by a fine of fifty dollars (\$50) for each tire found improperly dumped and bearing the tire business's marking required herein. Each day of continued violation of this subsection constitutes a separate offense.

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Sec. . Injunctive relief.

In addition to, and cumulative of, all other penalties herein provided, the county shall have the right to seek injunctive relief, for any violation(s) of this Article.

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Sec. . Tire Disposal Fund.

All funds received by the county, pursuant to this article, shall be placed in a special account designated "Tire Disposal Fund." Such funds shall be used solely by the county to pay for the reasonable and necessary costs of tire disposal services. It being the intention of this article, as previously set forth from its inception, that such funds shall be used to defray the cost of collection and disposal of tires in the county and for the use of the Redemption Program established herein.

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Sec. . Interlocal Agreement.

This article shall only be in effect if the county and the City of Memphis have a valid interlocal agreement setting forth the responsibilities of the county and the City of Memphis for purposes of carrying out the provisions of this article.

Secs. _____ . Reserved.

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BE IT FURTHER ORDAINED, That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

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BE IT FURTHER ORDAINED, That this Ordinance shall take effect in accordance with § 2.06(C)(4) of the Shelby County Charter, the public welfare requiring it.

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Chairman of County Commission

A C Wharton, Jr., County Mayor

Date: _____

ATTEST:

Clerk of County Commission

First Reading: _____

Second Reading: _____

ADOPTED

Third Reading: _____